Tex. Cr. R. 115; *Minters* v. *People,* 139 Ill. 636; *Boyd* v. *U. S.,* 116 U. S. 616. Whether a physician's prescription be a public or private document, however, is not so easily determined. If a druggist were being prosecuted criminally for wrongfully preparing a prescription would he be compelled to produce the prescription, or could a physician be compelled to produce his prescription in a criminal prosecution against himself? While undoubtedly the purpose and effectiveness of the statutes relating to sale of liquor by druggists on a physician's prescription is best conserved by considering such prescriptions to be public documents the production of which can be compelled, still it is not clear why prescriptions for liquor should occupy a unique position merely because of their subject matter. As to what are considered quasi-public documents, the production of which can be compelled, see *Louisville & N. R. Co.* v. *Com,.* 21 Ky. Law Rep. 239; *U. S. Express Co.* v. *Henderson,* 69 Iowa 40. As opposed in principle to the case under discussion see *McGinnis* v. *State,* 24 Ind. 500; *McKnight* v. *U. S.,* 115 Fed. 972; *Lamson* v. *Boyden,* 160 Ill. 613.

EVIDENCE—OPINION AS TO VALUE OF SERVICES—ADMISSIBILITY.—Plaintiff sued defendant Railway Company for damages due to injury received as a passenger, and, as bearing upon the quantum of damages to be awarded, was permitted to state that in her opinion her services as a housekeeper were worth $24 or $25 per month. There was other evidence before the jury as to her daily earnings in another capacity. *Held,* that her opinion as to the value of her services was competent and admissible. *St. Louis & S. W. Ry. of Texas* v. *Horne* (1910), — Tex. Civ. App. —, 130 S. W. 1025.

It is the undoubted general rule that a witness, not called as an expert, must state the facts within his knowledge and observation, and will not be permitted to give in evidence his opinion, inference, or deduction from those facts. *United States* v. *Faulkner,* 35 Fed. 730; *Pacheco* v. *Judson Mfg. Co.,* 113 Cal. 541; *Milledgeville* v. *Wood,* 114 Ga. 370; *Linn* v. *Sigsbee,* 67 Ill. 75; *Bissell* v. *Wert,* 35 Ind. 54; *Hanish* v. *Kennedy,* 106 Mich. 455; *Peerless Machine Co.* v. *Gates,* 61 Minn. 124. See also 5 ENCYC. OF EVID., pp. 651-652 and cases cited. The admissibility of the opinions and conclusions of non-expert witnesses drawn from observation of such matters and conditions as cannot be reproduced and made palpable to the jury, is an exception to the above stated rule. *Baltimore & O. R. Co.* v. *Rambo,* 59 Fed. 75; *Raymond* v. *Glover,* 122 Cal. 471; *Trott* v. *C. R. I. & P.,* 115 Iowa 80; *West Chicago R. Co.* v. *Fishman,* 169 Ill. 195. Within the limits of the exception stated above a witness cannot give her opinion without stating the facts upon which her opinion is based: (*Ardmore Coal Co.* v. *Bevil,* 61 Fed. 757; *Central Ia. R. Co.* v. *Bond,* 111 Ga. 13, 5 ENCYC. OF EVID., p. 569 and cases cited), nor may a witness state his opinion of a matter regarding which the jury is presumptively as capable of forming an opinion as the witness. *Chateaugay Iron Co.* v. *Blake,* 144 U. S. 476; *Strother* v. *Lucas,* 6 Pet. 763; *Hoehn* v. *Chicago P. & St. L. R. Co.,* 152 Ill. 233. While the opinion admitted in the principal case seems in principle to be without the qualities of admissibility just referred to, the following cases support the ruling in the principal case. *Stevens* v. *Walton,* 17 Colo. App. 440; *Ritter* v. *Daniels,* 47 Mich. 617; *Foley*

v. *Platt,* 105 Mich. 635; *Missouri Pac. R.* v. *Palmer,* 55 Nev. 559; *Fowler* v. *Fowler,* 111 Mich. 676. But it should be observed that in nearly all these cases some foundation for the opinion was put in evidence before the jury. Contra, see *Hastings* v. *The Uncle Sam,* 10 Cal. 341; *Harris v. Proofs Ex'rs.,* 10 Barb. 489; *Perrin* v. *Hotchkiss,* 58 Barb. 77; *Schuhle* v. *Cunningham,* 14 Daly (N. Y.) 404. According to general weight of authority the ruling in the principal case is sound; the mere fact of plaintiff rendering the service entitling her to give opinion as to their value. See 1 WIGMORE, EVID., § 715 and cases cited supporting this rule.

HUSBAND AND WIFE—WIFE'S RIGHT TO SUE FOR SEPARATE MAINTENANCE.—Defendant, a gold miner living at Valdez, Alaska, refused to support his wife, who had followed him, against his wishes, from their former home in Boston. She brought an action for separate maintenance. Defendant contended that the court had no jurisdiction. *Held,* that although not authorized by statute to entertain the suit, the court had jurisdiction by virtue of its general equity powers. *Jones* v. *Jones,* 3 Alaska 616.

Neither the ecclesiastical nor the equity courts of England could entertain a suit for separate maintenance and alimony, independent of a suit for divorce. *Ball* v. *Montgomery,* 2 Ves. 191; 1 BISHOP, MAR., DIV. AND SEP., §§ 1393-1400. Except, in rare cases, on a *supplicavit. Adams* v. *Adams,* 100 Mass. 365, 1 Am. Rep. 111. The reasons assigned are (1) that these courts were never given, and never had the right to assume, jurisdiction of such cases, and (2) that the right to buy necessaries on the husband's credit is adequate. *Adams* v. *Adams,* supra. The majority of American courts have adopted the doctrine. It is the rule in New York, Massachusetts, Arkansas, Connecticut, Florida, Georgia, Illinois, Indiana, Louisiana, Michigan, Missouri, New Hampshire, New Jersey, Oregon, Pennsylvania, Texas, Vermont, West Virginia and Wisconsin. Almost without exception, however, in these states statutes have been passed giving a remedy to abandoned wives similar in effect to that sought in the principal case. On the other hand, the courts of many states have assumed jurisdiction of such cases on the theory that there is no adequate legal remedy, saying that the right to buy necessaries on the husband's credit carries with it no certainty that his credit will be honored, and that in any event to require each tradesman to sue the husband for his bill is bad policy; arguing also that an injured spouse whom conscience or religion deters from seeking divorce would otherwise be remediless. *Clisby* v. *Clisby,* 160 Ala. 572, 49 South. 445; *Kimble* v. *Kimble,* 17 Wash. 75, 49 Pac. 216; *Brewer* v. *Brewer,* 79 Neb. 726, 113 N. W. 161, 13 L. R. A. (N. S.) 222; *Cureton* v. *Cureton,* 117 Tenn. 103, 96 S. W. 608. This rule obtains in Alabama, California, Colorado, District of Columbia, Iowa, Kentucky, Maryland, Mississippi, Montana, Nebraska, North Carolina, Ohio, South Carolina, South Dakota, Tennessee, Virginia, and Washington. It is generally held in such cases that the wife's right exists even though the husband's fault is not such as to constitute a ground for divorce. *Winburn* v. *Winburn,* — Ky. —, 124 S. W. 364; *Herrett* v. *Herrett,* — Wash. —, 111 Pac. 867: contra, *Shores* v. *Shores,* 133 Ia. 22, 110 N. W. 16.